

United States Court of Appeals for the Federal Circuit

2011-1521: ICON HEALTH V OCTANE FITNESS

U.S. District Court
District of Minnesota
Judge Ann D. Montgomery

Lower Court/Agency #: 09-CV-0319
Nature of Suit: 830
Case Type: Civil Private
DCT Type: Infringement
Basis of Jurisdiction: Federal Question

Notice of Appeal and Certified List Received: 08/09/2011
Notice of Appeal Filed: 08/04/2011
Docketed and Notice Sent to Parties: 08/10/2011
Certified List Filed: 08/10/2011

Consolidated appeal: 2011-1636 (Disp.: 10/24/2012)

<u>Date</u>	<u>Event Summary</u>
	Nothing Due
11/10/2011	Appellant Principal Brief Filing Date
01/27/2012	Appellee or Cross Appellant Principal Brief Filing Date
04/02/2012	Appellant Reply Brief Filing Date
05/03/2012	Appellee or Cross Appellant Reply Brief Filing Date
05/14/2012	Appendix Filing Date
08/07/2012	Oral Argument Date/Calendared
10/24/2012	Disposition: Affirmed; Panel
01/03/2013	Mandate

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List of Parties/Representation

Party Type/Name

Represented by

Plaintiff-Appellant

Icon Health & Fitness, Inc.

David R. Wright
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111
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EOA Filed: 08/23/2011
Principal Attorney

Larry R. Laycock
Workman Nydegger
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Bar admit: 07/22/1991
EOA Filed: 07/25/2012

David R. Todd
Workman Nydegger
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Bar admit: 08/07/1998
EOA Filed: 08/23/2011

C. J. Veverka
Workman Nydegger
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Bar admit: 02/11/2005
EOA Filed: 08/23/2011

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Party Type/Name

Represented by

Defendant/Cross Appellant

Octane Fitness, LLC

Rudolph A. Telscher, Jr.
Harness, Dickey & Pierce, PLC
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St. Louis, MO 63105
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Bar admit: 10/16/1992
EOA Filed: 08/24/2011
Principal Attorney

Kara R. Fussner
Harness, Dickey & Pierce, PLC
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Bar admit: 09/09/2004
EOA Filed: 08/24/2011

United States Court of Appeals for the Federal Circuit**2011-1521: ICON HEALTH V OCTANE FITNESS****Docket Entries**

Date	Type	Entry#	Entry Text
08/10/2011	F	1	Appeal docketed on 08/10/2011. EOD(08/10/2011 by SJ) 2011-1521
08/10/2011	O	2	Official Caption. Court Service - 08/10/11. Filed: 08/10/11. REV(08/10/11 by SJ) 2011-1521
08/23/2011	O	3	Entry of Appearance for David R. Wright as principal counsel on behalf of the appellant, Icon Health & Fitness Inc. Mail Service - 08/22/11. Filed: 08/23/11. REV(08/24/11 by SCN) 2011-1521
08/23/2011	O	4	Entry of Appearance for C.J. Veverka as counsel on behalf of the appellant, Icon Health & Fitness Inc. Mail Service - 08/22/11. Filed: 08/23/11. REV(08/24/11 by SCN) 2011-1521
08/23/2011	O	5	Entry of Appearance for David R. Todd as counsel on behalf of the appellant, Icon Health & Fitness Inc. Mail Service - 08/22/11. Filed: 08/23/11. REV(08/24/11 by SCN) 2011-1521
08/23/2011	O	6	Docketing Statement for the appellant, Icon Health & Fitness Inc. Mail Service - 08/22/11. Filed: 08/23/11. REV(08/23/11 by EO) 2011-1521
08/23/2011	O	7	Certificate of Interest for appellant Icon Health & Fitness, Inc. Mail Service - 08/22/11. Filed: 08/23/11. REV(08/24/11 by SCN) 2011-1521
08/25/2011	O	8	Entry of Appearance for Rudolph A. Telscher Jr. as principal counsel on behalf of the appellee, Octane Fitness LLC. Mail Service - 08/24/11. Filed: 08/24/11. REV(08/29/11 by SCN) 2011-1521
08/25/2011	O	9	Entry of Appearance for Kara R. Fussner as counsel on behalf of the appellee, Octane Fitness LLC. Mail Service - 08/24/11. Filed: 08/24/11. REV(08/29/11 by SCN) 2011-1521
08/25/2011	O	10	Docketing Statement for the appellee, Octane Fitness LLC. Mail Service - 08/24/11. Filed: 08/24/11. REV(08/25/11 by EO) 2011-1521
08/26/2011	O	11	Certificate of Interest for appellee Octane Fitness, LLC. Mail Service - 08/24/11. Filed: 08/24/11. REV(08/29/11 by SCN) 2011-1521

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Date	Type	Entry#	Entry Text
09/15/2011	O	12	Amended Certificate of Interest of appellee Octane Fitness, LLC Mail Service - 08/29/11. Filed: 09/09/11. REV(09/15/11 by SCN) 2011-1521
09/28/2011	O	13	Appellee Octane Fitness, LLC, Certificate of Compliance with FCR 11(d). Mail Service - 09/26/11. Filed: 09/26/11. REV(09/28/11 by MDB) 2011-1521
09/30/2011	O	14	Appellant Icon Health & Fitness, Inc., Certificate of Compliance with FCR 11(d). Mail Service - 09/26/11. Filed: 09/27/11. REV(09/30/11 by MDB) 2011-1521
10/03/2011	M	15	Appellant [Icon Health & Fitness, Inc.] - Unopposed Motion for a 30-day extension of time to file its opening brief. Mail Service - 09/30/11. Filed: 10/03/11. On consent. Action on Motion (16): Granted. Brief is due November 10, 2011. by Clerk. Filed: 10/03/11. EOD(10/03/11 by LRP) 2011-1521
11/10/2011	B	17	Icon Health & Fitness, Inc. [Appellant] - Brief for Appellant Icon Health & Fitness, Inc. Mail Service-11/10/11. Filed: 11/10/11. REV(11/16/11 by C_C) 2011-1521
11/22/2011	M	18	Appellee [Octane Fitness, LLC] - Octane Fitness, LLC's Unopposed Motion for a 21-Day Extension of Time to File Its Responsive Brief [NPF] Mail Service - 11/21/11. Filed: 11/22/11. Action on Motion (22): Motion granted to the extent that Octane's principal and responsive brief is due on January 13, 2012. Icon's reply & responsive brief and Octane's reply brief will be due in accordance w/F.R.A.P. 28.1(f). by Clerk. Filed: 01/10/12. EOD(11/22/11 by LB) REV(01/10/12 by LS) 2011-1521
01/05/2012	M	19	Appellant [Icon Health & Fitness, Inc.] - Unopposed Motion for a 14-day extension of time to file responsive brief. Mail Service - 01/04/12. Filed: 01/05/12. On consent. Action on Motion (23): Motion granted to the extent that Octane's principal and responsive brief is due on January 13, 2012. Icon's reply & responsive brief and Octane's reply brief will be due in accordance w/F.R.A.P. 28.1(f). by Clerk. Filed: 01/10/12. EOD(01/05/12 by LRP) REV(01/10/12 by LS) 2011-1521
01/10/2012	O	20	Ordered: The motion to consolidate 2011-1521 with 2011-1636 is granted. The revised official caption is reflected in the order. By: Clerk. Court Service - 01/10/12. Filed: 01/10/12. REV(01/10/12 by LS) 2011-1521

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Date	Type	Entry#	Entry Text
01/10/2012	O	21	Official caption revised pursuant to this court's order dated January 10, 2012. Court Service - 01/10/12. Filed: 01/10/12. REV(01/10/12 by LS) 2011-1521
01/10/2012	O	24	Note to File: appeals 2011-1521 and 2011-1636, docketed on 8/10/11 and 9/30/11, respectively, are consolidated No Service Required. Entered: 01/10/12. REV(01/10/12 by LB) 2011-1521
01/10/2012	O	25	Ordered: The motion for an extension of time is granted. Octane Fitness' opening and responsive brief is due January 27, 2012. By: Clerk. Court Service - 01/10/12. Filed: 01/10/12. REV(01/10/12 by LS) 2011-1521
01/30/2012	B	26	Octane Fitness, LLC [Cross-Appellant] - Brief for Defendant-Cross Appellant Octane Fitness, LLC. Mail Service-01/27/12. Filed: 01/27/12. REV(02/03/12 by C_C) 2011-1521
02/28/2012	M	27	Appellant [Icon Health & Fitness, Inc.] - Unopposed Motion for a 21-day extension of time to file its reply brief. Mail Service - 02/27/12. Filed: 02/28/12. On consent. Action on Motion (28): Motion granted. ICON's response and reply brief is due April 2, 2012. by Clerk. Filed: 03/02/12. EOD(02/28/12 by LRP) REV(03/02/12 by LS) 2011-1521
04/02/2012	B	29	Icon Health & Fitness, Inc. [Appellant] - Response and Reply Brief of Appellant icon Health & Fitness, Inc. Mail Service-04/02/12. Filed: 04/02/12. REV(04/02/12 by SEW) 2011-1521
04/12/2012	M	30	Cross-Appellant [Octane Fitness, LLC] - Unopposed Motion for a 14-day extension of time to file its reply brief. Filed: 04/12/12. On consent. Action on Motion (31): Granted. Reply brief is due May 3, 2012. by Clerk. Filed: 04/12/12. EOD(04/12/12 by LRP) 2011-1521
05/04/2012	B	32	Octane Fitness, LLC [Appellee] - Reply Brief for Defendant-Cross Appellant Octane Fitness, LLC. Mail Service-05/03/12. Filed: 05/03/12. [Confidential and Nonconfidential versions] REV(05/04/12 by SEW) 2011-1521
05/14/2012	O	33	Joint Statement of Compliance with FCR 33. Mail Service - 05/11/12. Filed: 05/14/12. REV(05/14/12 by MDB) 2011-1521
05/14/2012	B	34	Icon Health & Fitness, Inc. [Appellant] - Appendix (Two Volumes). Mail Service-05/14/12. Filed: 05/14/12. [Confidential and Nonconfidential versions] REV(05/14/12 by SEW) 2011-1521

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Date	Type	Entry#	Entry Text
05/14/2012	B	35	Icon Health & Fitness, Inc. [Appellant] - Supplementary Video Recording Media Appendix. Mail Service-05/14/12. Filed: 05/14/12. REV(08/07/12 by BW) 2011-1521
06/04/2012	O	36	Letter of counsel for appellant Icon Health & fitness, Inc. requesting that oral argument not be set for August 10; prefers August 6 to 8 for argument due to 8/10 conflict. (Senior Deputy Clerk noted) Mail Service - 06/01/12. Received: 06/04/12. REV(06/04/12 by KSH) 2011-1521
06/22/2012	O	37	NOTICE OF CALENDARING issued. Panel: 1208C on August 7, 2012. Entered: 06/22/2012. (EOD 06/22/2012 by KSH) 2011-1521
07/11/2012	O	38	Response to Oral Argument Order from the cross appellant, Octane Fitness LLC, stating that Rudolph A. Telscher Jr. will argue. Mail Service - 07/10/12. Received: 07/11/12. REV(07/11/12 by EO) 2011-1521
07/13/2012	M	39	Appellant [Icon Health & Fitness, Inc.] - Unopposed Motion for Leave to File Entry of Appearance for Larry R. Laycock and to File an Accompanying Response to the Oral Argument Order. [NPF] Mail Service - 07/12/12. Filed: 07/13/12. On consent. Action on Motion (41): Granted. by Merits Panel. Filed: 07/25/12. EOD(07/13/12 by KSH) REV(07/25/12 by KSH) 2011-1521
07/17/2012	O	40	Cross Appellant Octane Fitness, LLC's Notice of Intent to Use Visual Aids at Oral Argument. (Sent to Panel) Mail Service - 07/16/12. Received: 07/17/12. REV(07/17/12 by KSH) 2011-1521
07/25/2012	O	42	Entry of Appearance for Larry R. Laycock as counsel on behalf of the appellant, ICON Health and Fitness Inc. Mail Service - 07/16/12. Filed: 07/25/12. REV(07/30/12 by AD_) 2011-1521
07/25/2012	O	43	Response to Oral Argument Order from the appellant, ICON Health and Fitness Inc., stating that Larry R. Laycock will argue. Mail Service - 07/16/12. Received: 07/25/12. REV(07/25/12 by EO) 2011-1521
08/07/2012	O	44	Submitted after ORAL ARGUMENT by Larry R. Laycock and Rudolph A. Telscher, Jr. Panel: Rader, Newman and Lourie. Entered: 08/07/2012. (EOD 08/07/2012 by KSH) 2011-1521

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Date	Type	Entry#	Entry Text
10/24/2012	D	45	Disposition: Affirmed by Panel. Nonprecedential Opinion by: J. Lourie. Judgment Entered: 10/24/12. No costs. Opinion sent to parties: 10/24/12. Filed: 10/24/12. Mandate issued to the DCT: 01/03/13. REV (01/03/13 by LAW) 2011-1521
11/09/2012	O	46	Appellee Octane Fitness' Bill of Costs against appellant. Mail Service - 11/07/12. Filed: 11/07/12. REV(11/09/12 by LRP) 2011-1521
11/21/2012	P	47	Cross-Appellant [Octane Fitness, LLC] - Petition for Rehearing En Banc Mail Service-11/21/12. Filed: 11/21/12. Circulated to Panel for consideration as a Petition for Rehearing: 11/21/12. En Banc circulated: 12/10/12. Petition/En Banc Action(48): Denied/Denied on 12/27/12. REV(12/27/12 by LB) 2011-1521
01/03/2013	O	49	Costs taxed against the appellant, Icon Health & Fitness, Inc. in the amount of \$1218.00. Court Service - 01/03/13. Entered: 01/03/13. REV(01/03/13 by LAW) 2011-1521
04/01/2013	O	50	Notice from the Clerk of the Supreme Court of the United States that a petition for a writ of certiorari was filed on March 27, 2013 and placed on the docket as No. 12-1184, Octane Fitness, LLC v. Icon Health & Fitness, Inc. No Service Required. Received: 03/29/13. REV(04/01/13 by LB) 2011-1521
04/01/2013	S	51	Petition for Writ of Certiorari filed 03/29/13, Supreme Court #: 12-1184. REV(04/01/13 by LB) 2011-1521